BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 92-619-E - ORDER NO. 93-598

JULY 7, 1993

IN RE: Application of South Carolina Electric & Gas Company for an Increase in the Company's Electric Rates and Charges.	)))))	ORDER GRANTING ORAL ARGUMENT, CLARIFICATION, AND PARTIAL RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina (the Commission) on two separate pleadings. The first pleading is a Motion for Oral Argument and Petition for Reconsideration filed by the South Carolina Energy Users Committee (SCEUC). The second pleading is a Petition for Rehearing and/or Reconsideration of Order No. 93-465 filed by the South Carolina Department of Consumer Affairs (the Consumer Advocate). Because of the reasoning stated below, this Commission grants oral argument, clarification and partial reconsideration.

The South Carolina Energy Users Committee moves the Commission for an Order allowing SCEUC to argue orally before the Commission regarding Finding of Fact No. 16, and the Evidence and Conclusions for Finding of Fact No. 16, contained in Order No. 93-465, issued June 7, 1993. The SCEUC states that the purpose of the oral argument would be to explain in detail to the Commission the impact of its finding and conclusion and the impact of both Phase I and

Phase II rates for industrial customers, to demonstrate that the record supports a contrary conclusion to that reached in the Order, and other matters as delineated by SCEUC'S Motion and Petition. Further, SCEUC petitions for rehearing and reconsideration on several points:

1. Redistribution of increase to customer classes is proper for Phase II.

2. Recalculation of percentage of increase is proper for Industrials.

3. Redistribution of increase to customer classes is proper for Phase I to be in accord with the Stipulation.

After due consideration of the SCEUC Motion and Petition, the Commission believes that the points raised merit oral argument before this Commission. Further, the Commission believes that it is proper to reconsider the matters raised by the Petition in light of the oral argument to be presented. As pointed out by SCEUC, there is other evidence in the record that could have led to a different conclusion than the one reached by this Commission, had the Commission chosen to give it greater weight than it gave the cross-examination of Company witness How by Consumer Advocate Staff Attorney Williamson. For this reason, the Commission grants the Motion for Oral Argument made by the South Carolina Energy Users Committee, and holds that, although the Commission may not necessarily modify or reverse its prior Order, it will reconsider Finding of Fact No. 16 and Evidence and Conclusions for Finding of Fact No. 16 contained in Order No. 93-465 in light of the points raised in the oral arguments. The oral arguments will be open to

all parties, and all parties may argue, if appropriate, at such time as shall be indicated by notice to all parties.

The second pleading presented to this Commission is a Petition for Rehearing and/or Reconsideration of Order No. 93-465, filed by the Consumer Advocate. The first point raised by the Consumer Advocate is an allegation that the Commission's decision to allow the costs associated with non-officers' performance incentive plans is in error. The Consumer Advocate states that the error in the Order is based in part on the Company's testimony that the amount of the incentive pay is less than the amount of O&M savings generated because of the incentives. Further, the Consumer Advocate states that the Commission's decision ignores the Consumer Advocate's concerns that there has been no showing that these plans are necessary in order for the Company to earn a reasonable return on its rate base and to recover its reasonable operating expenses. Finally, the Consumer Advocate states that the Commission failed to address the issue of whether or not some of the costs associated with the plan should be allocated to the shareholders. The Consumer Advocate's assertions are without merit.

First, even though the Commission's Order on non-officers' incentive programs is based in part on budgeted costs, it should be noted that there is also specific evidence in the record that the non-officers' incentive programs have reduced operation and maintenance expenses for electric operations of the Company by a total of $35 million against incentive payments of $5.8 million (See Tr. Vol. 1, Gressette, at 82). Further, Company witness

Gressette states that reductions in sick leave rates and lost time accidents have been made goals of the incentive program. Since reducing sick leave was made an incentive goal, sick leave has declined by 36% from 1.94% of straight time payroll to 1.25%. This is a savings of over $700,000. Lost time accidents have declined from 80 per year to 11 since reducing lost time accidents has become an incentive goal. (See Tr. Vol. 1, Gressette at 80). The plan, when looked at in this light, certainly helps the Company earn a reasonable rate of return on its rate base, as well as recovering reasonable operating expenses, in that the plan has reduced the Company's operating expenses.

Further, the argument that some of the costs associated with the plan should be allocated to the shareholders has no merit. The most fundamental rule of regulatory ratemaking is that a Company should recover, through rates, reasonable and necessary expenses for providing utility service. Incentive costs are reasonable utility expenses because they have produced savings for customers that are far greater than the amount of expense they represent. Shareholders are limited by law and regulation to a reasonable return on their investment. Therefore, sharing the cost of the incentive program with the shareholders is inappropriate (See Tr. Vol. 1, Gressette, at 83).

For its second allegation of error, the Consumer Advocate cites inclusion in the rates of $1,732,000 associated with capacity purchases from Carolina Power & Light for four summer months in 1993 and 1994 as being incorrect. Because of the allegedly

temporary nature of these capacity purchases, the Consumer Advocate recommended that the increased cost be recouped through a surcharge or some other mechanism that would tie the cost directly to the cost recovery, Tr., Vol. 6, Miller, at 86-87. In its Order, the Commission dismissed the Consumer Advocate's position with a reference to the fact that the Company will need the additional capacity until a new Cope plant comes on line in 1996. See Order No. 93-465 at 28 - 29. As explained in Order No. 93-465 at 28, the testimony of Company witness Kenyon shows that the demand on SCE&G's system continues to grow at approximately 1.8% per year. In addition to the 100 megawatts to be purchased from Carolina Power & Light Company in 1993 and 1994, the Company will purchase an additional 50 megawatts of capacity from other suppliers in 1994 and an additional 250 megawatts of capacity in 1995. Tr., Vol. 2, Kenyon, at 69. As stated in Order No. 93-465, however, while SCE&G's specific capacity agreement may be temporary, the need for the additional capacity is not, as documented by the Company witnesses, and the Company will incur expenses at or above the level of 100 megawatt purchase power contract for the foreseeable future until at least the time of the placing into service of the Cope plant. The Consumer Advocate's allegation of error is without merit, and is therefore rejected.

Next, the Consumer Advocate objects to the Commission's language in approving the Company's proposed changes in terms of contract for street lighting Rates 17, 25, 26 and Residential Subdivision Street Lighting. The approved language gives the

Company the right to remove its facilities when subject to vandalism or for other cogent reasons. The Consumer Advocate complains that the Commission did not advance any independent reasoning in support of these changes. The Consumer Advocate further complains that the Commission should not have approved this change in the terms of contract without more specific language and a mechanism through which a municipality, subdivision or resident utilizing an overhead private street lighting system could assure continuation of service. This assertion is also without merit. The testimony of Company witness How, Vol. 5, at 122, shows that the intent of the Company in requesting the addition of the language was to allow the Company to remove its facilities in locations where those facilities are repeatedly vandalized. (emphasis added). As How states at 158, the Company has a number of areas where street lights, for one reason or another, cannot be maintained. The Commission believes that the Company should have the right to determine whether or not to replace equipment that is continuously vandalized (See. Tr. Vol. 5, How, at 159). The Commission believes that the intent of the Company was to have the provision applied only in cases of repeated instances of vandalism. It does not appear that a problem with normal utilization of street lighting would be present. The Commission reaffirms its holding and believes that the Company properly states a reasonable basis for the contract change, which we adopt.

The Consumer Advocate also complains that the Commission fails to offer any findings of fact to support its conclusion with

respect to depreciation adjustment to reflect new accruals, and refers the reader to Order No. 93-465 at 25. Unfortunately, for the Consumer Advocate, the Commission specifically found that the Staff and Company depreciation figure was more reflective of actual expense than was the Consumer Advocate's figure, which was based on a budgeted amount. The assertion of the Consumer Advocate with regard to a lack of findings of fact on this issue is unsupported.

The Consumer Advocate also states that the Commission made a finding on removal of unclaimed funds from rate base without offering any findings of fact. In clarification, an examination of Order No. 93-465 at 35, reveals that the Consumer Advocate's figure utilized a 13-month average in arriving at $71,000 for unclaimed funds. In approving the Company and Staff adjustment of $37,000 to reflect non-investor supplied unclaimed funds, the Commission was merely holding that the 13-month average was less credible than the Company and Staff methodology. Therefore the Commission affirms its holding in Order No. 93-465.

Finally, the Consumer Advocate questions the Commission's holdings on cost recovery and an incentive mechanism for demand side management (DSM) programs. The Consumer Advocate alleges a misquote of the position held by Consumer Advocate witness Miller with regard to recovery of costs. The Commission believes that any alleged misquote even if witness Miller was misquoted, was harmless error in the context of the Commission's Order, since the Commission adopted the position espoused by the Company and the Staff in any event.

The Commission is puzzled by the Consumer Advocate's assertion that nowhere in Order No. 93-465 does the Commission address the issues regarding the cost effectiveness of the Company's DSM programs, the reasonableness of the implementation costs, or the level of benefits achieved from each DSM option being consistent with the Company's integrated resource plan (IRP). This is especially puzzling when one examines Order No. 93-465 at 62. We stated as follows: "In this regard, the Commission accepts the Supplemental Stipulation between the Staff and the Company, and finds, based on that Stipulation and on the testimony of the Company's witness Gregg, that the following DSM programs have been properly justified as being beneficial and cost effective programs qualifying for the expense recovery...". This clearly addresses the Consumer Advocate's concern regarding the criteria espoused.

The Consumer Advocate also states that the Commission failed to address certain concerns raised by it during the hearing regarding the cost-effectiveness of several of the Company's DSM programs, including the heat pump installation portion of the Great Appliance Trade Up (GATU) program, the Good Cents Home program, and the GATU piggyback program. In adopting the Supplemental Stipulation of the Staff and the Company, the Commission addressed the concerns of the Consumer Advocate. Further, the Supplemental Testimony of John D. Gregg, III and the Exhibits attached thereto, (Hearing Exhibit No. 40), refute the questions raised by the Consumer Advocate during the hearing. The heat pump installation portion of the GATU program was demonstrated to be cost-effective,

and to enhance efficiencies, which served as part of the basis for its inclusion for cost recovery within the stipulation between the Commission Staff and South Carolina Electric and Gas Company. In addition, the option is included as a component of the overall GATU program which was demonstrated to comply with the established Commission requirements for DSM options. The Good Cents Home program passed the Utility Cost test, the Participant test, the RIM test and the TRC test for cost-effectiveness while also demonstrating enhanced system efficiencies. (See H.E.40, Exhibit JDG-7). Thus, the Good Cents Home program was found to comply with Commission requirements. The GATU piggyback option is included within the overall GATU program, which meets the criteria of the Commission.

The Consumer Advocate continues to complain in its pleading that the Commission has approved cost recovery and incentives for DSM programs without regard to cost-effectiveness of the programs. Such is not the case. Again, the Commission addressed this matter in Order No. 93-465 at 62. Thus, the Commission properly awarded cost recovery for the appropriate DSM programs,and the Consumer Advocate's allegations with regard to cost recovery are without substance.

With regard to the incentive mechanism for demand side management programs, the Consumer Advocate states that incentives must be provided to encourage utilities to invest in cost-effective energy efficient technologies and conservation programs. The incentive mechanism approved by the Commission for SCE&G is

consistent with this objective. It provides incentives for Conservation programs, and for programs which enhance system efficiencies.

Further, the Consumer Advocate states that utilities should not be rewarded for doing what they have traditionally done in the normal course of business, e.g. sales promotions, time-of-use rates, interruptible load programs, etc. The Commission would note, however, that the South Carolina Energy Act does not differentiate, and the Commission would be in violation of the Energy Act if it attempted to differentiate between what the utilities have done in the normal course of business, and what they are doing as new programs. If such DSM programs have been in place or are new, they must still comply with the procedures established by the Commission such as cost-effectiveness, the attainment of appropriate benefits, of proper implementation procedure, and proper implementation costs.

The Consumer Advocate alleges that granting cost incentives for sales promotional activities is contra to the Energy Act. The Commission agrees that load building programs should not qualify for an incentive, unless such programs serve to enhance system efficiencies. (See Order No. 93-465 at 61, Item #3.) To deny incentives for those load building options which provide benefits through enhanced system efficiencies would be contra to the Energy Act, which requires the Commission to encourage cost-effective energy efficient technologies, and is also contra to the Consumer Advocate's own objective for the incentive process of encouraging

energy efficient technologies.

In addition, providing an opportunity for an incentive for enhanced efficiencies is consistent with the Energy Act, which requires that the Commission must allow not only recovery of reasonable DSM costs, but must also allow a reasonable rate of return on investments in qualified DSM programs sufficient to make these programs at least as financially attractive as constructing new facilities. (See S.C. CODE ANN. Section 58-37-20 (1976, as amended). The Consumer Advocate complains that there was no analysis performed to determine how to properly structure an incentive mechanism. First of all, it should be noted that the Consumer Advocate presented no evidence in the record on this topic, other than cross-examination. The Commission, however, evaluated and set up criteria on pages 61 and 62 of Order No. 93-465, which it believes are consistent with the Energy Act. The Consumer Advocate complains about the Commission's incentive mechanism, but fails to propose one in the alternative.

Finally, the Consumer Advocate states that the mechanism established by the Commission rewards SCE&G for "wasting the ratepayers' money and abusing the Commission's trust." The Commission recognizes that any incentive mechanism as required by the Energy Act contains the potential for the outcomes discussed by the Consumer Advocate. However, examination of Order No. 93-465, at 60-63 shows that this Commission has established procedures which can be monitored by all parties, and which can reduce the possibility of the occurrence of such outcomes. Clearly, a utility

desiring to earn incentives must follow the criteria based on the testimony of staff witness Walsh, and adopted by this Commission. If a Company does not qualify under the present criteria listed as 1 - 5 on pages 60-62 of Order No. 93-465 then no incentive is allowed. The Commission has developed a complex procedural standard which must be followed before any incentive can be awarded for any DSM program. The Commission therefore rejects the allegations of the Consumer Advocate with regard to the Commission's established DSM incentive program for South Carolina Electric and Gas Company.

IT IS THEREFORE ORDERED:

1. That the Motion for Oral Argument of the South Carolina Energy Users Committee is granted.

2. That the Petition for Reconsideration of the South Carolina Energy Users Committee is partially granted, in that reconsideration shall be granted on Finding of Fact No. 16 and the Evidence and Conclusions for Finding of Fact No. 16 after oral argument, although the Commission may not necessarily modify or reverse its prior Order No. 93-465.

3. That clarification is hereby granted with regard to certain rate base adjustments as contested by the Consumer Advocate.

4. That the Consumer Advocate's Petition for Rehearing and/or Reconsideration of Order No. 93-465 is hereby denied.

5. That this Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Executive Director

(SEAL)